STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AHAJNAE JEWEL KEMP,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CALVIN EVAN BROWN III, a/k/a CALVIN E. BROWN,

Respondent-Appellant.

UNPUBLISHED
June 8, 2004

No. 251249
Wayne Circuit Court
Family Division
LC No. 97-352657

Before: Markey, P.J., and Wilder and Meter, JJ.

MEMORANDUM.

Respondent appeals by right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(J). The evidence presented at the permanent custody hearing clearly showed that respondent had just been sentenced to prison for twenty-five to fifty years for second-degree murder. Respondent argues that his incarceration would not deprive the minor child of a normal home because the biological mother retained her parental rights. His position is contrary to is not supported by established case law holding that the Legislature envisioned that the parental rights of just one parent could be terminated. See *In re SD*, 236 Mich App 240; 599 NW2d 772 (1999); *In re Huisman*, 230 Mich App 372; 584 NW2d 349 (1998); *In re Ramsey*, 229 Mich App 310; 581 NW2d 291 (1998); and *In re Marin*, 198 Mich App 560; 499 NW2d 400 (1993).

Respondent next argues that he was denied the opportunity to plan for the minor child by the trial court's termination of his parental rights, but not those of the mother, because he was precluded from arranging a guardianship for the child while the mother's rights were still intact. This argument is undone by respondent's own actions before and during the permanent custody hearing. The parental rights of the mother were also in danger of termination, but respondent offered no plan for the minor child in the event that both his and the mother's rights were

terminated. As such, the trial court had sufficient evidence to conclude that respondent had not provided for the child and that there was no reasonable expectation that he would be able to provide for the child within a reasonable time considering her age.

Respondent also argues that the trial court should have considered the strength of his appeal from his criminal convictions, because a successful appeal could shorten his sentence. Respondent's cite of *In re Perry,* 193 Mich App 648; 484 NW2d 768 (1992) does not support his argument, however. In addition, family courts cannot become arbiters of criminal law.

Finally, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5). Therefore, the trial court did not err in terminating respondent's parental rights to the minor child.

We affirm.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter